



Administrative Policies and Procedures: 32.1

Subject:	General Health Insurance Portability and Accountability Act Privacy Requirements
Authority:	Health Insurance Portability and Accountability Act (HIPAA) of 1996; TCA 37-5-105, 37-5-106
Standards:	None
Application:	To All Department of Children's Services Employees

Policy Statement:

The Department of Children's Services shall comply with the Health Insurance Portability and Accountability Act 1996 (HIPAA) Privacy Rules that establishes minimum Federal standards for protecting the privacy of individually identifiable health information.

Purpose:

To outline procedures for compliance with the HIPAA Privacy Rule for the establishment of a HIPAA program.

Procedures:

A. Appointment of DCS Privacy Officer

1. DCS shall designate an individual as the DCS Privacy Officer who will be responsible for the development and implementation of department-wide policies and procedures relating to the HIPAA requirements to ensure compliance with the federal regulations. The Department Privacy Officer shall be responsible for, but not limited to, the items listed below:
 - a) Oversee all ongoing activities related to the development, implementation, maintenance of, and adherence to the department's policies concerning privacy;
 - b) Monitor the process for receiving, documenting, tracking, investigating, and taking action on all complaints;
 - c) Ensure that DCS is in compliance with its privacy practices and HIPAA privacy policies for all employees; and
 - d) Training as applicable.
2. **Regional/Facility Privacy Officers** - At least one individual in each Regional Office, Youth Development Center and DCS Group Home will serve as support for the Department Privacy Officer and their region or facility.
3. Regional and Facility Privacy Officer designee's will be responsible for providing information about privacy practices for their region or facility and coordinating with the Departmental Privacy Officer to assist in the

	<p>investigation of complaints and processing of client requests.</p> <p>4. The DCS Ombudsman's Office shall receive, document, track, investigate and take action on all complaints and requests related to client privacy rights. This office will be responsible for establishing and administering a process for receiving and processing all client requests pursuant to DCS policy, 32.2 Client Privacy Rights.</p>
B. Training	<p>DCS will provide training to all DCS employees on HIPAA privacy practices, rules and regulations. All HIPAA training will be documented on form CS-0724, Monthly Training and submitted to the Office of Training and Staff Development for documentation of training credit.</p>
C. Safeguarding confidential PHI about clients	<p>1. All DCS employees and business associates will respect and protect the privacy of records and health information about clients who request or receive services from DCS.</p> <p>2. All health information regarding DCS clients is confidential and must be safeguarded in accordance with DCS HIPAA privacy policies and procedures and DCS policies 9.4, Confidential Child-Specific Records Information and 9.5, Access and Release of Confidential Child-Specific Information and 32.4, Administrative, Technical and Physical Safeguards.</p> <p>3. DCS shall not use or disclose PHI unless:</p> <ol style="list-style-type: none"> The client has authorized the use or disclosure in accordance with DCS policy, 32.3, Uses and Disclosures of Client Protected Health Information; or The use or disclosure is specifically permitted under DCS policy, 32.3, Uses and Disclosures of Client Protected Health Information.
D. Conflict with other requirements regarding privacy and safeguarding	<p>1. If any State or Federal law or regulation, or order of a court having appropriate jurisdiction, imposes a <u>stricter</u> requirement upon any DCS policy regarding the privacy or safeguarding of information, DCS shall act in accordance with that stricter standard.</p> <p>2. All DCS staff will act in accordance with established policies and procedures outlined in DCS policies, 9.4, Confidential Child-Specific Records Information and 9.5, Access and Release of Confidential Child-Specific Information regarding the safeguarding and confidentiality of individual information, whether health-related or not, in all DCS programs, services and activities.</p> <p>3. The DCS Privacy Officer must be consulted if there are clarifications needed with privacy policies.</p>
E. DCS Notice of Privacy Practices	<p>1. DCS Staff must give a copy of the DCS Notice of Privacy Practices (CS-0699 – Pages 1-3) to any client age 12 years old or older enrolling in or receiving services from DCS, describing the actions a client may take, or request DCS to take.</p>

	<ol style="list-style-type: none"> 2. Each client who receives services from DCS must sign an acknowledgement form CS-0699 DCS Notice of Privacy Practices and Client Acknowledgment (Page 4), on their first date of service. This signed acknowledgement must be maintained in the client's file for a minimum of six (6) years. 3. If DCS staff cannot acquire a signed acknowledgement from the client, the reason must be documented in the client's TNKIDS case recordings using the "Correspondence contact" type. This signed acknowledgement or documentation of good faith effort must be maintained on file for six (6) years. 4. DCS may be considered a business associate of service providers. If so, PHI may be shared among business associates and covered entities without further consent from the individual. 5. The DCS Notice of Privacy Practices will contain all information required under federal regulations regarding the Notice of Privacy Practices for PHI under HIPAA.
F. Process for receiving HIPAA complaints	<p>All timeframes for responding to HIPAA complaints shall be in accordance with DCS policy 32.2, Client Privacy Rights, Section G.</p> <ol style="list-style-type: none"> 1. All complaints will be forwarded to the DCS Ombudsman's Office of receipt. Complaints may be received from: <ol style="list-style-type: none"> a) Parents/guardians b) Employees c) Providers d) Stakeholders 5. All complaints will be received/reviewed regardless of format (<i>i.e.</i>, personal visits, letters, faxes, telephone or by e-mail, <i>etc.</i>). 6. The Ombudsman's Office will immediately contact the DCS Privacy Officer, RA, regional or facility HIPAA privacy officer regarding the complaint and follow-up with an e-mail to request that an investigation begin with the complaint and provide the status of the investigation to the Ombudsman's office and DCS Privacy Officer. 7. The regional privacy officer and DCS Privacy officer will work in collaboration so that the investigation follows HIPAA rules, guidelines and DCS policy. 8. The region/facility privacy officer will inform the Ombudsman and DCS Privacy Officer of the findings of the investigation. 9. The Ombudsman's office will send a final letter communicating the findings from the investigation and the letter will also inform the person of their rights as outlined in HIPAA guidelines if they are dissatisfied with the findings. 10. If a complaint is sent to the <i>Federal Office of Civil Rights</i>, the Commissioner will be notified.

Forms:	<u>CS-0699, DCS Notice of Privacy Practices and Client Acknowledgment</u> <u>CS-0724, Monthly Training</u>
Collateral documents:	<i>None</i>